IN THE HIGH COURT OF JUDICATURE OF ANDHRA PRADESH
AT HYDERABAD

(SPECIAL ORIGINAL JURISDICTION)

THURSDAYTHE TWENTY SECOND DAY OF APRIL TWO THOUSAND AND FOUR

: PRESENT :

THE HON'BLE MR.JUSTICE: N.V. RAMANA

W.P. No.7690 of 2004

Between:

Petitioner

AND

1. The Union of India, rep.by its Secretary, Ministry of Energy, Central Secretariat Buildings, New Delhi-1.
2. The Andhra Pradesh Electricity Regulatory Commissioner, Red Hills, Hyderabad
   rep.by its Chairman
3. Non-Conventional Energy Development Corporation of Andhra Pradesh Ltd. Nampally, Hyderabad rep.by its Managing Director
4. The Andhra Pradesh Transmission Company Ltd. Vidyut Soudha, Somajiguda,
   Hyderabad rep.by its Chairman cum Managing Director

Respondents

Petition under Section 151 of CPC praying that in the circumstances stated in the affidavit filed therewith, the High Court will be pleased to issue an appropriate Writ, Order or direction, more particularly a Writ in the nature of Mandamus, the action of the 1st respondent in not establishing the Tribunal as contemplated under Section 110 of the Electricity Act, 2003 as violative of the principles of natural justice and further declare that the action of the 2nd respondent in revising the purchasing rate of the Electrical Energy through its order dated 20-03-2004 in RP No.84/2003 in OP.No.1025/2000 with a drastic reduction from the prevailing tariff without considering the Objections and the scientific data supplied by the Petitioner and other non-conventional units, and even in negation of the recommendations of the 3rd respondent, the expert body, as being illegal, arbitrary, violative of principles of promissory estoppel besides being violative of Article 19(1)(g) of the Constitution of India and the established judicial procedents, and consequently set aside the order dated 20-03-2004of the 2nd respondent with a direction to the 1st respondent to establish the Appellate Electricity Tribunal as was envisaged under Section 113 of the Electricity Act, 2003

The petition coming on for hearing, upon perusing the petition and the affidavit filed in support thereof and the order of the High Court dated made in and upon hearing the arguments of Mr. Advocate for the Petitioner and for the Respondents No. 2 & 3, for the Respondents.

The Court made the following ORDER :

"The learned counsel for the petitioners submits that under Section 110 of the Indian Electricity Act, 2003, respondent no.1-Central Government is undr

an obligation to establish an Appellate Tribunal for Electricity to hear appeals against the orders of respondent No.2-Electricity Regulatory Commission, and inasmuch as no Appellate Tribunal has been established by respondent No.1-Central Government, the petitioners are left with no remedy, except to invoke the jurisdiction of this Court under Article 226 of the Constitution of India to assail the orders of respondent no.2-Electricity Regulatory Commission.

The learned Staing Counsel for Central Government took notice for responent No.1-Cental Government sought time to get instructions as to the date by which the Appellate Tribunal could be established. The learned Standing Counsels appearing on behalf of the respondents No.2 and 3 took notice, and sought time to file counter.

The learned counsel for the petitioners contends that failure to constitute the Appellate Tribunal has deprived the petitioners of their statutory right of appea. He further contends that if the new tariff order is enforced, the petitioners wil have no close down their unit.

In the above circumstances, I consider it appropriate to make the following order;

For a period of three weeks, respondent No.3 shall continue to pay to the petitioner for the power supplied by the as per the tariff existing prior to 1-4-2004. It is needless to mention that any difference of amount, between the old and new tariff, paid by respondent No.3 to the petitioner by virtue of this interim order, can always be adjusted by respondent No.3 against the future bills of the petitioners , in the event the writ petition is dismissed.

List the matter along with W.P.No.7599 of 2004."

ASSISTANT REGISTRAR
// TRUE COPY //

for ASSISTANT REGISTRAR

To